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10/806,084	03/22/2004	Kelly M. Christensen	STRATOS.006A	1383
20995	7590	04/08/2009	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			SMITH, SHEILA B	
2040 MAIN STREET			ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR			2617	
IRVINE, CA 92614				

  

NOTIFICATION DATE	DELIVERY MODE
04/08/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/806,084	CHRISTENSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SHEILA B. SMITH	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 December 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11,34-37,44-48 and 50-80 is/are pending in the application.  
 4a) Of the above claim(s) 12-33,38-43 and 49 is/are withdrawn from consideration.  
 5) Claim(s) 1-11,44-47,50-52 and 60-64 is/are allowed.  
 6) Claim(s) 34-37,48,53-59,65-80 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 34-37, 48, 53-59,65-73, rejected under 35 U.S.C. 102(e) as being anticipated by Hashimoto (U.S. Patent Number 2002/178441).

*Regarding claim 34*, Hashimoto discloses everything claimed as applied above additionally, Hashimoto discloses as best understood by the examiner in view of the 112 rejection a method for tracking and compiling user responses to a broadcast segment in a broadcast, the method comprising: providing at least one unique event identifier corresponding to a specific instance of each broadcast segment (which reads on “the broadcasting schedule of each program”) and at least one user option associated with the broadcast segment; broadcasting the at least one unique event identifier and the at least one user option associated with the broadcast segment over a data stream (which reads on paragraphs 0036-0037); receiving, using a broadcast receiver device (50) (which reads on client terminal), the broadcast segment, the at least one unique event identifier (which reads on program ID), and the at least one user option

associated with the broadcast segment (which reads on paragraph 0041, 0046-0048); detecting a selection by a user of the at least one user options in response to the broadcast segment (which reads on paragraph 0041); transmitting, using the broadcast receiver device (50), at least one data packet in response to the broadcast segment (which reads on paragraph 0041); receiving the at least one data packet from the broadcast receiver device in response to the broadcast segment; extracting the at least one unique event identifier from the at least one data packet, wherein an identity of a broadcaster of the broadcast segment can be determined by comparing the at least one unique event identifier with a lookup table (which reads on program schedule database as disclosed in paragraph 0036); compiling a summary of user responses based on the extracted unique identifier; and generating a report for a third party based on the summary of user responses (which reads on paragraph 0072).

***Regarding claim 35,*** Hashimoto discloses the at least one data packet was received without user initiation (which reads on internet broadcast as disclosed in paragraph 0035).

***Regarding claim 36,*** Hashimoto discloses the at least one data packet is tracked according to user, and a user is rewarded for the receipt of the at least one data packet (which reads on internet broadcast as disclosed in paragraph 0025).

***Regarding claim 37,*** Hashimoto discloses the at least one data packet (which reads on audience survey) was forwarded by a first user (view/listener) to a second user (which reads on

“audience rating survey company”), and the first user is rewarded for the receipt of the at least one data packet (which reads on paragraph 0025).

***Regarding claim 48,*** Hashimoto discloses the storing at least the unique event identifier and the at least one user option in the broadcast receiver for future retrieval (which reads on client software holding unit paragraph 0042).

***Regarding claim 53,*** Hashimoto discloses the at least one data packet includes a user identifier (which reads on paragraph 0026).

***Regarding claim 54,*** Hashimoto discloses the broadcast receiver (which reads on client terminal) is a consumer device equipped with a broadcast transceiver (which reads on paragraph 0031).

***Regarding claim 55,*** Hashimoto discloses the broadcast receiver is a cell phone which reads on paragraph 0031).

***Regarding claim 56,*** Hashimoto discloses the broadcast receiver is a digital media player (which reads on paragraph 0031).

***Regarding claim 57,*** Hashimoto discloses the broadcast receiver is a radio (which reads on paragraph 0031).

***Regarding claim 58,*** Hashimoto discloses the extracting further comprises extracting a user identifier from the at least one data packet (which reads on paragraph 0026).

***Regarding claim 59,*** Hashimoto discloses the user identifier is a reference number associated with the communications device (which reads on paragraph 0063).

***Regarding claim 65,*** Hashimoto as best understood by the examiner in view of the 112 rejection, discloses a method for tracking and compiling user responses to a broadcast segment,

the method comprising: determining at least one unique event identifier and any user options associated with the broadcast segment corresponding to a specific instance of the broadcast segment (which reads on paragraph 0037) wherein broadcasting a broadcast comprises at least one broadcast segment (which reads on “each program” as disclosed in paragraph 0036); receiving at least one data packet from a user device in response to the broadcast segment, wherein the user device automatically generates the data packet, and further wherein an identity of a broadcaster of the broadcast segment can be determined from the data packet (which reads on paragraph 0036 and 0037); extracting the at least one unique event identifier from the at least one data packet wherein the data packet further comprises at least a destination location for the response (which reads on paragraph 0040); compiling a summary of user responses based at least in part on the extracted unique identifier (which reads on program ID); and generating a report for a third party based on the summary of user responses (which reads on paragraph 0072).

***Regarding claim 66,*** Hashimoto discloses the extracting comprises polling the communications device (which reads on “receives the user Ids, device Ids and program Ids that are sent at every fixed time interval from the client terminals 50 where the users are viewing/listening to the internet-broadcasted program” as disclosed in paragraph 0070).

***Regarding claim 67,*** Hashimoto discloses the communications device is a consumer device equipped with a broadcast transceiver (which reads on devices equipped with communication functions as disclosed in paragraph 0031).

***Regarding claim 68,*** Hashimoto discloses the automatic generation of the data packet is in response to a user action (which reads on paragraph 0071).

***Regarding claim 69,*** Hashimoto discloses the device is a radio (which reads on “The client terminals 50 are devices or systems with which each viewer/listener (user) of the Internet-broadcasted program can operate and view/listen to the program, including, for example, personal computers, mobile phones, portable information processing devices or video game devices equipped with communication functions ” as disclosed in paragraph 0031).

***Regarding claim 70,*** Hashimoto discloses the report comprises user demographic information (which reads on paragraph 0009).

***Regarding claim 71,*** Hashimoto discloses the user demographic information comprises user age information (which reads on paragraph 0009).

***Regarding claim 72,*** Hashimoto discloses the user demographic information comprises user location information (which reads on paragraph 0009).

***Regarding claim 73,*** Hashimoto discloses the user demographic information comprises user gender information (which reads on paragraph 0009).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 74-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto in view of Yamanaka (U.S. Patent Number 6,928,423).

***Regarding claim 74,*** Hashimoto as best understood by the examiner in view of the 112 rejection, discloses a method for tracking and compiling user responses to a broadcast segment, the method comprising: determining at least one unique event identifier corresponding to a specific instance of the broadcast segment (which reads on paragraph 0037); receiving at least one data packet from a user device in response to the broadcast segment, wherein the user device automatically generates the data packet and, further wherein an identity of a broadcaster of the broadcast segment can be determined from the data packet (which reads on paragraph 0036-0037); extracting the at least one unique event identifier from the at least one data packet, wherein the data packet comprises at least a destination location for the response (which reads on paragraph 0040); compiling a summary of user responses based at least in part on the extracted unique identifier; and generating a report for a third party based on the summary of user responses, wherein the user report comprises demographic information (which reads on paragraphs 0071-0072). However Hashimoto fails to specifically disclose the unique event

identifier distinguished at least a broadcaster, an item, and a date and time of the broadcast segment.

In a similar field of endeavor Yamanaka discloses the program identification information, includes a service ID and a broadcasting time (as disclosed in column 7 lines 60-64). Further it is obvious that a broadcasting time would include both a date and time of a program to distinguish between different programs.

Therefore it would have obvious to one of ordinary skill in the art at the time of the invention was made to improve Hashimoto with a unique event identifier distinguished at a least a broadcaster, an item, and a data and time of the broadcast segment for the purpose of distinguishing between different programs being stored.

***Regarding claim 75,*** Hashimoto discloses the providing user options associated with the broadcast segment (which reads on paragraph 0031).

***Regarding claim 76,*** Hashimoto discloses the user demographic information comprises user age information (which reads on paragraph 0009).

***Regarding claim 77,*** Hashimoto discloses the user demographic information comprises user location information (which reads on paragraph 0009).

***Regarding claim 78,*** Hashimoto discloses the user demographic information comprises user gender information (which reads on paragraph 0009).

***Regarding claim 79,*** Hashimoto discloses the automatic generation of the data packet is in response to a user action (which reads on paragraph 0071).

***Regarding claim 80,*** Hashimoto as best understood by the examiner in view of the 112 rejection, discloses a method for broadcasting a unique event identifier corresponding to a specific instance of a broadcast segment, comprising: determining the unique event identifier (which reads on the program ID) that corresponds to the specific instance of the broadcast segment; preparing at least one element of data identifying the broadcast segment; formatting at least the unique event identifier into a data packet for transmission in a data stream (which reads on paragraph 0037); storing at least the unique event identifier, wherein reference to the unique identifier provides access to at least the one element of data identifying the broadcast segment (which reads on paragraph 0036); transmitting the broadcast segment in a main broadcast signal (which reads on paragraph 0073); transmitting at least the data packet in the data stream, wherein an identity of a broadcaster of the broadcast segment can be determined from the data packet (which reads on paragraph 0073); and generating a report at least in part on the unique event identifier (which reads on paragraph 0072). However Hashimoto fails to specifically disclose the unique event identifier distinguished at least a broadcaster, an item, and a date and time of the broadcast segment.

In a similar field of endeavor Yamanaka discloses the program identification information, includes a service ID and a broadcasting time (as disclosed in column 7 lines 60-64). Further it

is obvious that a broadcasting time would include both a date and time of a program to distinguish between different programs.

Therefore it would have obvious to one of ordinary skill in the art at the time of the invention was made to improve Hashimoto with a unique event identifier distinguished at least a broadcaster, an item, and a date and time of the broadcast segment for the purpose of distinguishing between different programs being stored.

***Allowable Subject Matter***

5. Claims 1-11,44-47, 50-52, 60-64 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-11, 34-37, 44-48, 50-80 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEILA B. SMITH whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Smith /Sheila B. Smith/  
Examiner, Art Unit 2617  
March 25, 2009

/Dwayne D. Bost/  
Supervisory Patent Examiner,  
Art Unit 2617